

REMARKS

Applicant respectfully requests the Examiner to reconsider and withdraw the rejection of claims 1 and 3-10 under 35 U.S.C. § 103(a) based on unpatentability of Nguyen '448 in view of Stefik '012.

First, without acquiescing in their rejections, Applicant cancels the "terminal" claims 5, 6, 7 and 8. Furthermore, Applicant cancels claim 3 and incorporates its limitations by amendment into the independent parent "system" claim 1, whereby the amended claim 1 is now equivalent to the previous claim 3/1. Claim 4 has been amended to make it dependent on the amended claim 1, whereby claim 4 is equivalent to previous claim 4/3/1. (With regard to paragraph 8 on page 6 of the Office Action, the above amendment to claim 1 (and the cancellation of claims 5 and 7) automatically eliminates the word "category" which the Examiner asserts is "not supported in the specification".)

Thus, the only claims remaining for consideration for the rejection under 35 U.S.C. § 103(a) are the "system" claims 1 (3/1) and 4 (4/3/1) and the "method" claims 9 and 10.

Applicant hereby incorporates by reference the arguments presented in the response filed on April 19, 2004, and presents the following additional comments/arguments for the Examiner's consideration.

Applicant again respectfully submits that neither Nguyen nor Stefik teaches, or even remotely suggests, Applicant's claim limitations: "an activation mechanism, coupled to said protection mechanism, for activating at least one of said modes **in dependence on at least control information...**representing an **economic value** of the transported information,...a

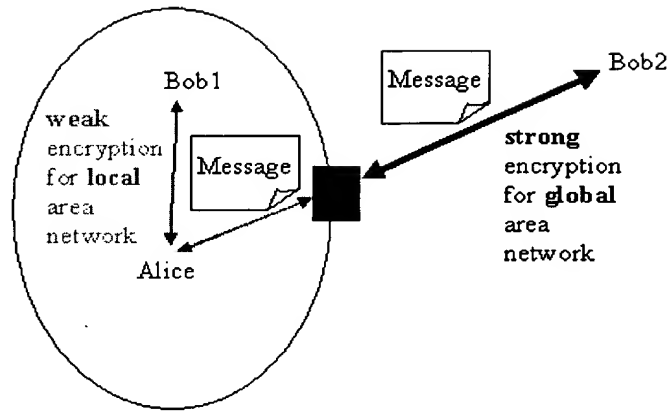
billing mechanism coupled to said activation mechanism for billing said sender **in dependence on at least the activated one of said modes**" (claim 1); and a "returning mechanism for...returning a predefined value to said sender, which predefined value is **a function of said economic value**" (dependent claim 4), and "the step of...returning a predetermined value to said sender, which predetermined value is **a function of said economic value** (dependent claim 10).

In the paragraph bridging pages 4 and 5 of the final Office Action, and with respect to claims 1 (3/1) and 9, the Examiner asserts that this "economic value" limitation is taught by Nguyen in the passage, at column 10, lines 46-67 which allegedly teaches

different selected security levels representing different important/economic levels.

However, Applicant finds nothing in this passage which teaches this "economic value" limitation, and it appears that the Examiner is equating "important" and "economic" levels. (Applicant respectfully submits that an appeal should not be necessary in this case; however, if it is, Applicant respectfully requests the Examiner to point out exactly where Nguyen teaches or suggest Applicant's claimed "economic value" limitation.)

What Nguyen, in fact, teaches is a multilevel security/encryption system which assigns different security/encryption levels based on the type of **network**, i.e., local vs. public or global. See the following sketch illustrating Nguyen's method/system. The assumption in Nguyen is that global (public) channels are more likely to be attacked/hacked than local ones (LAN).



There is **no** billing mechanism or billing step described or even remotely suggested in Nguyen, and it is clear that Nguyen's disclosure does not even contemplate (or require) a billing mechanism or step.

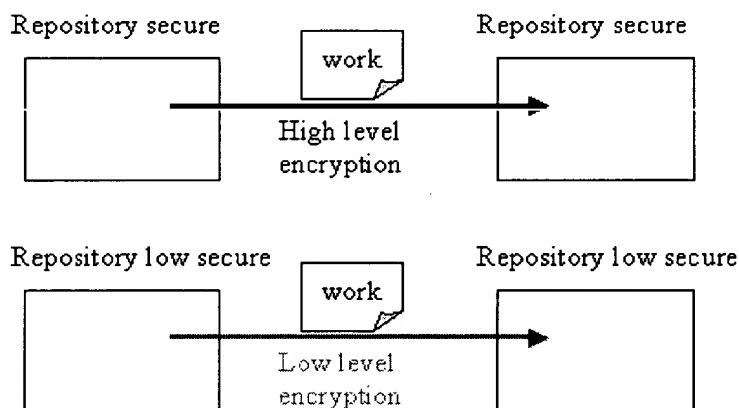
Thus, Applicant respectfully submits that this difference/deficiency in Nguyen's disclosure (relative to Applicant's claimed subject matter) renders Nguyen **ineffective** as a primary reference in the rejection under 35 U.S.C. § 103(a), whereby Applicant respectfully submits that, for this reason alone, the Nguyen/Stefik combination is flawed and clearly fails to make a *prima facie* case of obviousness of the subject matter of each of claims 1, 4, 9 and 10.

All that the Examiner says about Stefik's disclosure is that it "furnish[es] information (see Stefik, Fig. 1 - ref .108) as a required function of [Stefik's] system". Then, in the beginning portion of the second paragraph on page 4 of the Office Action, the Examiner presents broad generalities as to why it would have been obvious "to implement Nguyen's teaching with Stefik et al.'s idea to suggest [?] a system with a billing mechanism to send a bill to another party

because this would simplify a step of calculating and transmitting related financial information..."[?].

The Examiner then presents another (confusing) conclusory statement, "wherein above billing mechanism would be integrated into Nguyen's system".

In fact, Stefik is not at all related to different security levels for exchanged information but, rather, to an accounting system for managing usage fees attached to various "digital works". As shown in the following sketch, Stefik merely discloses keeping important things in secure "repositories" and unimportant things in less secure "repositories".



Thus, a person of ordinary skill in the relevant art (at the time of Applicant's invention) would not have combined Stefik's billing system with Nguyen's multi-level encryption/security level since the separation of the "repositories" does not require (incremental) encryption. Rather, the "repositories" are merely hard-wired. Thus, Applicant respectfully submits that a person of ordinary skill in the art who reads Nguyen's disclosure would not have any reason for introducing Stefik's "repository" architecture for controlling the **encryption**.

In summary then, Applicant respectfully submits that the Nguyen/Stefik combination does not even remotely suggest either Applicant's claimed "billing mechanism coupled to said activation mechanism for billing said sender in dependence on at least the activated one of said modes", or the claimed step of "billing said sender in dependence on at least the **activated one of said modes**".

Furthermore, even if, for some reason, the teachings of Nguyen and Stefik were combined, there would not be produced the subject matter of any one of Applicant's pending claims 1, 4, 9 and 10, or subject matter which would have rendered obvious the subject matter of each of these claims.

For at least the **same** reasons, the **dependent** claims 4 and 10 would not have been (and could not have been) obvious from the combined teachings of Nguyen and Stefik, and further because the combination certainly does not disclose or suggest "returning a predefined value to said sender, which predefined value is **a function of said economic value**".

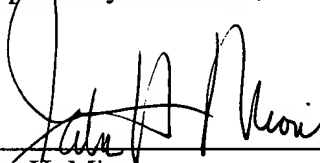
Therefore, Applicant respectfully requests the Examiner to reconsider and withdraw the rejection under 35 U.S.C. § 103(a), and to find the application to be in condition for allowance with claims 1, 4, 9 and 10; however, if for any reason the Examiner feels that the application is not now in condition for allowance, the Examiner is respectfully requested to **call the undersigned attorney** to discuss any unresolved issues and to expedite the disposition of the application. (The above amendments should be entered (at least for the purpose of appeal) as they merely cancel claims or rewrite dependent claims in independent form.)

AMENDMENT UNDER 37 C.F.R. § 1.116
U.S. APPLN. NO. 09/760,792

(For the Examiner's information, claims corresponding to claims 1, 4, 9 and 10 have been allowed in the counterpart European (published) Application No. EP 1119149.)

Applicant hereby petitions for any extension of time which may be required to maintain the pendency of this application, and any required fee for such extension is to be charged to Deposit Account No. 19-4880. The Commissioner is also authorized to charge any additional fees under 37 C.F.R. § 1.16 and/or § 1.17 necessary to keep this application pending in the Patent and Trademark Office or credit any overpayment to said Deposit Account No. 19-4880.

Respectfully submitted,



John H. Mion
Registration No. 18,879

SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, D.C. 20037-3213
(202) 663-7901

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: September 23, 2004